AMENDED IN ASSEMBLY MAY 14, 1997 AMENDED IN ASSEMBLY MAY 12, 1997 AMENDED IN ASSEMBLY MAY 5, 1997 AMENDED IN ASSEMBLY APRIL 16, 1997

CALIFORNIA LEGISLATURE—1997-98 REGULAR SESSION

## **ASSEMBLY BILL**

No. 1303

## **Introduced by Assembly Member Miller**

February 28, 1997

An act to amend Sections 19.8, 266h, 266i, 290, 290.2, and 290.5 of, and to add and repeal Section 290.8 of, the Penal Code, and to add Section 6610 to amend Section 5328.2 of the Welfare and Institutions Code, relating to sex offenders.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1303, as amended, Miller. Sex offenders: registration.

(1) Existing law requires persons convicted of specified sex offenses to register with local law enforcement agencies upon their discharge, parole, or release from confinement and to update that registration annually. Failure to register or update the registration is a crime.

This bill would include among these specified offenses pimping or pandering involving a minor, aggravated sexual assault of a child, and solicitation to commit sexual assault. The bill would also require every person who is a high-risk sex offender to verify his or her address every 90 days. By

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expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The bill also would require any person over the age of 21 years who is convicted of unlawful sexual intercourse with a minor who is under 16 years of age to register with designated law enforcement agencies within 5 working days of coming into any city, county, or city and county in which he or she temporarily resides or is domiciled, and annually thereafter. Any violation of this provision would be punishable as a misdemeanor or an infraction. The bill would provide that this section shall remain in effect only until January 1, 2008, or until the federal requirement that states register with a state law enforcement agency the current address of persons convicted of a criminal offense against a minor or a sexually violent repealed. The bill offense is would make additional conforming changes. By creating a new crime, the bill would impose a state-mandated local program.

The bill also would require the State Department of Mental Health, upon admission of a person to a state hospital when a determination is made that the person is a sexually violent predator, to send a notice of that fact within 30 days to the Department of Justice for purposes of determining whether the person is required to register pursuant to these provisions.

(2) Existing law requires the State Department of Mental Health, a state hospital, or any other public or private mental health facility approved by the county mental health director to forward immediately without prior request **Department** Justice movement identification of and information and records regarding a patient committed to any of these facilities for observation or for an indeterminate period as a mentally disordered sex offender, or regarding a patient who is committed to any of these facilities pursuant to a plea of insanity or a finding of mental incompetence or for receiving treatment as an imminently dangerous person.

This bill would make this provision applicable to movement and identification information and records regarding a person who is civilly committed as a sexually violent predator.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs

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mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. In order to ensure the continued receipt
- 2 of federal anti-drug abuse funds by the state and to
- 3 protect the public from repeat violent sex offenders, it is
- 4 the intent of the Legislature that California sex offender
- 5 registration statutes comply with the provisions of the
- 6 Jacob Wetterling Crimes Against Children and Sexually
- 7 Violent Offender Program contained in the federal
- 8 Violent Crime Control and Law Enforcement Act of 1994,
- 9 Section 14071 of Title 42 of the United States Code.
- 10 SEC. 2. Section 19.8 of the Penal Code is amended to 11 read:
- 12 19.8. The following offenses are subject to subdivision
- 13 (d) of Section 17: Sections 193.8, 290.8, 330, 415, 485, 555,
- and 853.7, of this code; subdivision (m) of Section 602 of
- 15 this code; subdivision (b) of Section 25658 and Sections
- 16 21672, 25658.5, 25661, and 25662 of the Business and
- 17 Professions Code; subdivision (c) of Section 23109 and
- 18 Sections 12500, 14601.1, 27150.1, 40508, and 42005 of the
- 19 Vehicle Code, and any other offense which the
- 20 Legislature makes subject to subdivision (d) of Section
- 201 17 F
- 21 17. Except where a lesser maximum fine is expressly
- 22 provided for violation of any of those sections, any
- 23 violation which is an infraction is punishable by a fine not
- 24 exceeding two hundred fifty dollars (\$250).
- 25 Except for the violations enumerated in subdivision
- 26 (d) of Section 13202.5 of the Vehicle Code, and Section
- 27 14601.1 of the Vehicle Code based upon failure to appear,
- 28 a conviction for any offense made an infraction under
- 29 subdivision (d) of Section 17 is not grounds for the
- 30 suspension, revocation, or denial of any license, or for the
- 31 revocation of probation or parole of the person convicted.

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SEC. 3. Section 266h of the Penal Code is amended to 1 2 read:

- 3 266h. (a) Except as provided in subdivision (b), any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part of from the earnings or proceeds the 6 prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is allowed, or who solicits or receives 10 practiced or compensation for soliciting for the person, is guilty of 12 pimping, felony, and shall be punished 13 imprisonment in the state prison for three, four, or six 14 years.
- (b) If the person engaged in prostitution is a minor 16 over the age of 16 years, the offense is punishable by imprisonment in the state prison for three, four, or six 18 years. If the person engaged in prostitution is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.
- SEC. 4. Section 266i of the Penal Code is amended to 21 22 read:
- 266i. (a) Except as provided in subdivision (b), any 24 person who does any of the following is guilty of shall pandering, felony, and be punished by imprisonment in the state prison for three, four, or six vears:
  - (1) Procures another person for the purpose of prostitution.
  - (2) By promises, threats, violence, or by any device or scheme, causes, induces, persuades or another person to become a prostitute.
- (3) Procures for another person a place as an inmate 34 in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this state.
- (4) By promises, threats, violence or by any device or 37 38 scheme, causes, induces, persuades or encourages an inmate of a house of prostitution, or any other place in

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which prostitution is encouraged or allowed, to remain therein as an inmate.

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- (5) By fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution.
- (6) Receives or gives, or agrees to receive or give, any 10 money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution.
  - (b) If the other person is a minor over the age of 16 years, the offense is punishable by imprisonment in the state prison for three, four, or six years. Where the other person is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.
- 20 SEC. 5. Section 290 of the Penal Code is amended to 21 read:
- 290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon 30 the campus or in any of its facilities, within five working days of coming into any city, county, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within five working days of his or her birthday, update his or her registration with the 36 described in this paragraph, including, verifying his or her name and address on a form as may be required by the Department of Justice. In addition, every person who is a high-risk sex offender, as defined in subparagraph (A) of paragraph (1) of subdivision (n), shall, after his or her

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release from custody, verify his or her address every 90 days as directed by the local law enforcement agency having jurisdiction over the city, county, or city and county in which the person temporarily resides or is 5 domiciled.

- (2) The following persons shall be required to register pursuant to paragraph (1):
- (A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any 10 federal or military court of a violation of subdivision (b) of Section 207, kidnapping, as punishable pursuant to subdivision (d) of Section 208, Section 220, except assault 12 to commit mayhem, Section 243.4, paragraph (1), (2), 13 14 (3), (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of subdivision (a) of Section 262 involving 16 the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 17 18 subdivision (b) of Section 266h, subdivision (b) of Section 266i, 266j, 267, 269, 285, 286, 288, 288a, 288.5, or 289, 20 subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, 21 subdivision (d) of Section 647, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the 27 attempt to commit any of the above-mentioned offenses.
  - (B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).
- (C) Any person who, since July 1, 1944, has been or 34 hereafter is determined to be a mentally disordered sex 35 offender under Article 1 (commencing with Section 36 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.
- (D) Any person who, since July 1, 1944, has been, or is 38 hereafter convicted in any other court, including any federal or military court, of any offense which, if

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committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

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- (E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the 10 reasons for its findings and the reasons for requiring registration.
- (b) Any person who, after August 1, 1950, is released, 13 discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted 16 commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she 18 was committed as a mentally disordered sex offender 19 under Article 1 (commencing with Section 6300) of 20 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or 21 release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by 26 the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place 32 of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department 34 of Justice and one copy to the appropriate enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the

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scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting 5 agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place 6 of confinement shall retain one copy.

- (c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission 10 of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be 15 16 required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having 25 local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.
- (d) (1) Any person who, on or after January 1, 1986, 28 is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.
  - (2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this

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state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this 4 section.

(3) The following offenses shall apply for the purpose of this subdivision:

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- (A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.
- (B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) 14 of subdivision (a) of Section 261, subdivision (a) of Section 289, subdivision (b) of Section 207, or kidnapping, as punishable pursuant to subdivision (d) of Section 208.
- (C) Any offense under Section 264.1 involving rape in 18 concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of 20 bodily injury.
- (4) Any person who is discharged or paroled from the 22 Department of the Youth Authority to the custody of 23 which he or she was committed after having been 24 adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the 26 commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.
- 30 (5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under procedures set this section. 33 the forth in of 34 Department the Youth Authority officials shall 35 transmit the required forms and information to the 36 Department of Justice.
- (6) All records specifically relating to the registration 37 in the custody of the Department of Justice, law 38 enforcement agencies, and other agencies or public officials shall be destroyed when the person who is

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required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and 3 Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or 5 juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

- (e) (1) The registration shall consist of all of following:
- (A) A statement in writing signed by the person, 13 giving information as may be required by 14 Department of Justice.
  - (B) The fingerprints and photograph of the person.
  - (C) The license plate number of any vehicle owned by or registered in the name of the person.
- (2) Within three days thereafter, the registering law 19 enforcement shall forward agency or agencies statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.
- (f) If any person who is required to register pursuant 23 to this section changes his or her name or residence address, the person shall inform, in writing within five 25 working days, the law enforcement agency or agencies 26 with whom he or she last registered of the new name or address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.
- (g) (1) Any person who is required to register under 34 this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor 36 punishable by imprisonment in a county jail exceeding one year.
- (2) Notwithstanding paragraph (1), any person 38 has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220,

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violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of 4 force or violence for which the person is sentenced to state prison, any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, subdivision (b) of Section 207, kidnapping, as punishable pursuant to subdivision (d) of Section 208, and who is required to register under this section who willfully violates this section is guilty of a 10 felony punishable by imprisonment in the state prison for 16 months, or two or three years. 12

(3) Any person required to register under this section 13 based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of under failing to register this section and subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

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A person punished pursuant to this paragraph paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is 34 convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under **AB 1303 — 12 —** 

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this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the 4 disposition.

- (h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.
- (i) Except as provided in subdivisions (m) and (n) and 14 Section 290.4, the statements, photographs, 15 fingerprints required by this section shall not be open to 16 inspection by the public or by any person other than a regularly employed peace officer other or 18 enforcement officer.
- (j) In any case in which a person who would be 20 required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the 28 institution. This subdivision shall not apply to any person who is temporarily released under guard from institution where he or she is confined.
- (k) As used in this section, "mentally disordered sex 32 offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with 36 Section 6000) of the Welfare and Institutions Code.
  - (1) (1) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall

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be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

- (2) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to five working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.
- (m) (1) When a peace officer reasonably suspects, 14 based on information that has come to his or her attention through information provided by any peace officer or 16 member of the public, that a child or other person may be at risk from a sex offender convicted of a crime listed 17 18 in paragraph (1) of subdivision (a) of Section 290.4, a law enforcement agency may, notwithstanding provision of law, provide any of the information specified in paragraph (2) of this subdivision about that registered 22 offender that the agency deems relevant 23 necessary to protect the public, to the following persons, 24 agencies, or organizations the offender is encounter, including, but not limited to, the following: 25
  - and private educational institutions, (A) Public day establishments, establishments care and and organizations that primarily serve individuals likely to be victimized by the offender.
- 30 (B) Other community members at risk.
- 31 (2) The information that may be disclosed pursuant to 32 this section includes the following:
- 33 (A) The offender's full name.
- 34 (B) The offender's known aliases.
  - (C) The offender's gender.
- 36 (D) The offender's race.

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- (E) The offender's physical description. 37
- 38 (F) The offender's photograph.
- 39 (G) The offender's date of birth.
- (H) Crimes resulting in registration under this section. 40

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(I) The offender's address, which must be verified 1 prior to publication.

- (J) Description and license plate number of offender's vehicles or vehicles the offender is known to drive.
  - (K) Type of victim targeted by the offender.
- (L) Relevant parole or probation conditions, such as one prohibiting contact with children.
- (M) Dates of crimes resulting in classification under this section.
  - (N) Date of release from confinement.
- However. information disclosed pursuant to this subdivision shall not include information that would identify the victim.
- (3) If a law enforcement agency discloses information pursuant to this subdivision, it shall include, with the disclosure, a statement that the purpose of the release of the information is to allow members of the public to protect themselves and their children from sex offenders.
- (4) For purposes of this section, "likely to encounter" means both of the following:
- (A) That agencies, organizations, the or community members are in a location or in proximity to a location where the offender lives or is employed, or that the offender visits or is likely to visit on a regular basis.
- (B) The types of interaction that ordinarily occur at that location and other circumstances indicate contact with the offender is reasonably probable.
- (5) For purposes of this section, "reasonably suspects" means that it is objectively reasonable for a peace officer to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect that a child or other person is at risk.
- (6) For purposes of this section, "at risk" means a 36 person is or may be exposed to a risk of becoming a victim of a sex offense committed by the offender.
- 38 A law enforcement agency may continue to (7) disclose offender information on an under this

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subdivision for as long as the offender is included in Section 290.4.

- (n) In addition to the procedures set forth elsewhere in this section, a law enforcement agency may advise the public of the presence of high-risk sex offenders in its community pursuant to this subdivision.
  - (1) For purposes of this subdivision:

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- (A) A high-risk sex offender is a person who has been convicted of an offense for which registration is required under paragraph (2) of subdivision (a) and also meets one of the following criteria:
- (i) Has been convicted of three or more violent sex offenses, at least two of which were brought and tried separately.
- (ii) Has been convicted of two violent sex offenses and 16 one or more violent nonsex offenses, at least two of which were brought and tried separately.
- (iii) Has been convicted of one violent sex offense and 19 two or more violent nonsex offenses, at least two of which were brought and tried separately.
- (iv) Has been convicted of either two violent sex offenses or one violent sex offense and one violent nonsex offense, at least two of which were brought and tried separately, and has been arrested on separate occasions 25 for three or more violent sex offenses, violent nonsex offenses, or associated offenses.
- (v) Has been adjudicated a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and 30 Institutions Code.
  - (B) A violent sex offense means any offense defined in Section 220, except attempt to commit mayhem, 261, 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or infliction of great bodily injury during the commission of a sex offense, as provided in Section 12022.8.
- 36 (C) A violent nonsex offense means any offense defined in Section 187, subdivision (a) of Section 192, 203, 37 206, 207, 236, provided that the offense is a felony, subdivision (a) of Section 273a, 273d, or 451, or attempted murder, as defined in Sections 187 and 664.

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- (D) An associated offense means any offense defined in Section 243.4, provided that the offense is a felony, Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, 314, 459, provided the offense is of the first degree, 597, 646.9, subdivision (d), (h), or (i) of Section 647, 653m, or infliction of great bodily injury during the commission of a felony, as defined in Section 12022.7.
- (E) For purposes of subparagraphs (B) inclusive, an arrest or conviction for the statutory predecessor of any of the enumerated offenses, or an arrest or conviction in any other jurisdiction for any offense which, if committed or attempted in this state, would have been punishable as one or more of the 14 offenses described in those subparagraphs, is to be considered in determining whether an offender is a 16 high-risk sex offender.
- (F) For purposes of subparagraphs (B) to (D), 18 inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to considered in determining whether an offender is a high-risk sex offender.
- (G) Notwithstanding subparagraphs (A) to (D), 25 inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:
- (i) The offender's most recent conviction or arrest for 28 an offense described in subparagraphs (B) inclusive, occurred more than five years prior to the assessment by the Department of high-risk excluding periods of confinement.
- (ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted 35 in the preceding 15 years, excluding periods 36 confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence,
- to verify the information provided in paragraph (2).

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(H) "Confinement" 1 means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under 5 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions 6 Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 10 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

enforcement agency" means any of the (I) "Law 13 following: municipal police department; sheriff's 14 department; district attorney's office; county probation department; Department of Department Justice; 16 Corrections; Department Youth of the Authority: Department of the California Highway Patrol; or the 18 police department of any state university, state college, 19 or community college.

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- (2) The Department of Justice shall continually search 21 the records provided to it pursuant to subdivision (b) and identify, on the basis of those records, high-risk sex offenders. Four times each year, the department shall provide to each chief of police and sheriff in the state, and 25 to any other law enforcement agency upon request, the following information regarding each identified high-risk sexual offender: full name; known aliases; gender; race; physical description; photograph; date of birth; crimes resulting in classification under this section.
- Justice (3) The Department of and any enforcement agency to which notice has been given pursuant to paragraph (2) may cause to be made public, by whatever means the agency deems necessary to safety, based upon ensure the public information available to the agency concerning a specific person, 36 including, but not limited to, the information described in paragraph (2); the offender's address, which shall be verified prior to publication; description and license plate number of the vehicles or vehicles the offender is known to drive; type of victim targeted by the offender; relevant

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parole or probation conditions, such as one prohibiting contact with children; dates of crimes resulting in classification under this section; and date of release from excluding information confinement: but that identify the victim. 5

- (o) Agencies disseminating information to the public pursuant to subdivision (m) shall maintain records of the offender and the means and dates of dissemination for a minimum of five years.
- (p) Law enforcement agencies, employees enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.
- person who uses information disclosed 14 pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison. Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine 20 imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).
- (r) The registration and public notification provisions 23 of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.
- 28 SEC. 6. Section 290.2 of the Penal Code is amended to 29
- 30 290.2. (a) Any person who is required to register under Section 290 or 290.8 because of the commission of, or the attempt to commit, a felony offense specified in Section 290, or who is convicted of murder in violation of 34 Section 190 or 190.05, or who is convicted of a felony 35 offense of assault or battery in violation of Section 217.1, 36 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245, 245.2, 37 245.3, or 245.5, and who is committed to a state prison, 38 county jail, or any institution under the jurisdiction of the Department of the Youth Authority where he or she was

confined, or is granted probation, or is released from a

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state hospital to which he or she was committed as a mentally disordered sex offender under (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall be required to provide two specimens of blood and a saliva sample to that institution or, in the case of a person granted probation, to a person and at a location within the county designated for testing. The county shall make every effort to utilize one location for testing a person 10 under this section.

The withdrawal of blood shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, duly licensed clinical 14 laboratory technologist, or clinical laboratory bioanalyst may withdraw the blood specimens for purposes of this 16 section.

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In addition, the subject shall also provide a right 18 thumbprint and a full palm print impression of each hand on a form prescribed by the Department of Justice to be forwarded to and maintained by the Bureau of Criminal Identification and Information of the Department of Justice. The right thumbprint shall be taken at the time 23 of the withdrawal of blood and shall be placed on the form and the blood vial label. The full palm prints shall be taken of subjects who are committed to a state prison, county jail, or any institution under the jurisdiction of the Department of the Youth Authority where he or she was confined, or is granted probation, or is released from a state hospital to which he or she was committed as a disordered offender under mentally sex Article (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code. In the case of a person granted probation, the full palm prints shall be taken of the subject by a person and at a location within the county designated for taking the palm print 36 impressions, and at the time the subject is required to reregister as delineated in Section 290f.

(b) The Department of Corrections shall provide full palm prints on a form prescribed by the Department of Justice to the Bureau of Criminal Identification

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Information of the Department of Justice to be retained in a file for law enforcement purposes.

(c) The Department of Justice shall provide all blood specimen vials, mailing tubes, labels, and instructions for the collection of the blood specimens, saliva samples, and thumbprints. The specimens and samples shall thereafter be forwarded to the Department of Justice for analysis of deoxyribonucleic acid (DNA) and other genetic typing at the department's DNA laboratory. The 10 Department of Justice may provide samples from these specimens to local public DNA laboratories for law 12 enforcement purposes provided that the other privacy 13 provisions of this section are followed by the local 14 laboratory.

The Department of Justice shall perform DNA analysis 16 and genetic typing analysis only other enforcement purposes.

Additionally, the Department of Justice shall provide palm print cards, mailing envelopes, instructions for the collection of full palm prints. The full palm prints, on a form prescribed by the Department of Justice, shall thereafter be forwarded to the Department of Justice for maintenance in a file for law enforcement purposes.

- (d) Additional specimens may be collected pursuant 26 to subdivision (a) and sent to a local public DNA laboratory for DNA analysis and other genetic typing analysis if each of the following conditions are met:
- (1) The methodologies and procedures used by the 30 local public DNA laboratory for analysis are the same as those established by the Department of Justice pursuant to subdivision (k).
- (2) Only tests of value to law enforcement for 34 identification purposes are performed and a copy of the 35 results of the analysis are sent to the Department of 36 Justice.
- (3) All provisions concerning privacy 37 and security enumerated in this section are followed.

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(4) The local public DNA laboratory assumes all costs of securing the sample and provides appropriate tubes, labels, and instructions necessary to secure the samples.

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(e) The Department of Justice DNA laboratory shall perform genetic typing only for those markers having value for law enforcement purposes.

For purposes of this subdivision, "marker" shall have the meaning generally ascribed to it by members of the scientific community experienced in the use of DNA technology.

The Bureau of Criminal Identification and Information of the Department of Justice shall perform analysis of full palm prints only for law enforcement purposes.

- (f) (1) The **DNA** other and genetic typing 15 information shall be filed with the offender's file Sex the Registration 16 maintained by Unit Department of Justice or in a computerized data bank system.
- (2) The DNA and other genetic typing information 20 shall not be included in the state summary criminal history information.
- (3) The computerized data bank system shall 23 limited to containing information only on individuals convicted of crimes specified in subdivision (a), or 25 evidence accumulated from crime scenes during ongoing 26 investigations and believed to have been left by a person suspected of having committed a violent felony specified 28 in subdivision (c) of Section 667.5 or an offense specified in Section 290 or 290.8. Evidence accumulated pursuant to this provision from any crime scene with respect to a particular person shall be stricken from the data bank when it is determined that the person is no longer a suspect in the case.

34 The full palm prints of each hand shall be filed and 35 maintained by the Automated Latent Print Section of the 36 Bureau of Criminal Identification and Information of the Department of Justice, and may be included in the state 37 38 summary criminal history information.

The full palm print file shall be limited to containing 39 information only on individuals convicted of crimes AB 1303 **— 22 —** 

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specified in subdivision (a). These full palm prints shall be maintained until the subject is no longer required to register pursuant to Section 290 or 290.8.

- (g) The DNA and other genetic typing information, and full palm prints, shall be released only to law enforcement agencies, including, but not limited to, parole officers of the Department of Corrections, hearing officers of the parole authority, and district attorneys' offices, at the request of the agency, except as specified 10 in this section. Dissemination of this information to law enforcement agencies and district attorneys' outside the state shall be done in conformity with the provisions of this section.
- (h) Any person who knowingly discloses DNA or other 15 genetic typing information or full palm print comparison developed pursuant to this 16 results section unauthorized individuals or agencies, or for other than enforcement purposes, shall be guilty misdemeanor.
- (i) Furnishing DNA or other genetic 21 information or full palm print comparison results to counsel for criminal defense purposes 23 compliance with discovery is not a violation of this 24 section.
- (j) It is not a violation of this section to disseminate 26 statistical or research information obtained from the offender's file, the computerized data bank system, or the full palm print file, provided that the subject of the file is identified and cannot be identified information disclosed. It is also not a violation of this section to include information obtained from a file as 32 follows: (1) in a transcript or record of a judicial proceeding, or (2) in any other public record when the 34 inclusion of the information in the public record is authorized by a court, statute, or decisional law.
  - (k) The Department of Justice shall make public the methodology and procedures to be used in its DNA program prior to the commencement of DNA testing in its laboratories. The Department of Justice shall review and consider on an ongoing basis the findings and results

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of any peer review and validation studies submitted to the department by members of the relevant scientific community experienced in the use of DNA technology.

SEC. 7. Section 290.5 of the Penal Code is amended to 5 read:

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person 290.5. (a) A required to register under 6 Section 290 or 290.8 may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, and, except persons described in paragraph 10 (1) of subdivision (a) of Section 290.4 or paragraph (2) of subdivision (g) of Section 290, upon obtaining a certificate of rehabilitation, shall be relieved of any 12 13 further duty to register under Section 290 if not in 14 custody, on parole, or on probation. This certificate shall relieve persons described in paragraph (1) 15 subdivision (a) of Section 290.4 or paragraph (2) of 16 subdivision (g) of Section 290 of the duty to register 17 18 under Section 290 and shall not relieve a petitioner of the duty to register under Section 290 for any offense subject 20 to that section of which he or she is convicted in the 21 future.

- (b) (1) Except as provided in paragraphs (2) and (3), a person described in paragraph (1) of subdivision (a) of Section 290.4 or paragraph (2) of subdivision (g) of Section 290 shall not be relieved of the duty to register until that person has obtained a full pardon as provided in Chapter 1 (commencing with Section 4800) or Chapter 3 (commencing with Section 4850) of Title 6 of Part 3.
- (2) This subdivision does not apply to misdemeanor 30 violations of Section 647.6.
- (3) The court, upon granting a petition for a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, may relieve a person of the duty to register under Section 290 for a violation of Section 288 or 288.5, provided that the person 36 was granted probation pursuant to subdivision (c) of Section 1203.066, has complied with the provisions of Section 290 or 290.8 for a continuous period of at least 10 years immediately preceding the filing of the petition, and has not been convicted of a felony during that period.

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SEC. 8. Section 290.8 is added to the Penal Code, to 1 2 read:

3 290.8. (a) (1) Every person convicted of a violation of subdivision (d) of Section 261.5 shall be required to 5 register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she 10 is domiciled upon the campus or in any of its facilities, within five working days of coming into any city, county, or city and county in which he or she temporarily resides 12 or is domiciled for that length of time. The person shall 14 be required annually thereafter, within five working days of his or her birthday, to update his or her registration 16 with the entities described in this paragraph, including, 17 verifying his or her name and address on a form as may be required by the Department of Justice.

- (b) (1) The registration shall consist of the following:
- (A) A statement in writing signed by the person, giving information be as may required Department of Justice.
  - (B) The fingerprints and photograph of the person.
- (C) The license plate number of any vehicle owned by 25 or registered in the name of the person.
  - (2) Within three days thereafter, the registering law enforcement agency or agencies shall forward statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.
- (c) If any person who is required to register pursuant to this section changes his or her name or residence address, the person shall inform, in writing within five working days, the law enforcement agency or agencies 34 with whom he or she last registered of the new name or address. The law enforcement agency or agencies shall, 36 within three days after receipt of this information, forward it to the Department of Justice. The department shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

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(d) A violation of this section is punishable by a fine not exceeding one thousand dollars (\$1,000),imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

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(e) This section shall remain in effect only until January 1, 2008, or until the federal requirement that states register with a state law enforcement agency the current address of persons convicted of a criminal offense against a minor or a sexually violent offense pursuant to Wetterling Crimes Against Children Jacob Sexually Violent Offender Act, Subtitle A of Title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322), is repealed, whichever occurs first.

SEC. 9. Section 6610 is added to the Welfare and 15 Institutions Code, to read:

6610. Upon admission of a person to a state hospital when a determination is made pursuant to this article that the person is a sexually violent predator, the State Department of Mental Health shall send a notice of that fact within 30 days to the Department of Justice for purposes of determining whether the person is required to register pursuant to subdivision (a) of Section 290 of the Penal Code.

SEC. 9. Section 5328.2 of the Welfare and Institutions Code is amended to read:

5328.2. Notwithstanding Section 5328, movement and identification information records and regarding patient who is committed to the department, state hospital, or any other public or private mental health 30 facility approved by the county mental health director for observation or for an indeterminate period as a mentally disordered sex offender, regarding a person who is civilly committed as a sexually violent predator pursuant to 34 Article 4 (commencing with Section 6600) of Chapter 2 35 of Part 2 of Division 6, or regarding a patient who is 36 committed to the department, to a state hospital, or any other public or private mental health facility approved by the county mental health director under Section 1026 or 1370 of the Penal Code or receiving treatment pursuant Section 5300 of this code, shall be forwarded **AB 1303 — 26 —** 

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immediately without prior request to the Department of Justice. Except as otherwise provided by law, information under automatically reported this section shall name, address, fingerprints, restricted to date of admission, date of discharge, date of escape or return from escape, date of any home leave, parole or leave of absence and, if known, the county in which the person will reside upon release. The Department of Justice may in turn furnish information reported under this section pursuant to Section 11105 or 11105.1 of the Penal Code. It 10 shall be a misdemeanor for recipients furnished with this information to in turn furnish the information to any 12 13 person or agency other than those specified in Section 14 11105 or 11105.1 of the Penal Code.

SEC. 10. No reimbursement is required by this act 16 pursuant to Section 6 of Article XIII B of the California 17 Constitution because the only costs that may be incurred 18 by a local agency or school district will be incurred 19 because this act creates a new crime or infraction, 20 eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article 24 XIII B of the California Constitution.

17580 of the Government Notwithstanding Section 26 Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.